

Notice of Allowability

Application No.

10/669,503

Examiner

Yong D. Pak

Applicant(s)

KAWANO ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the supplemental after final amendment filed on June 7, 2007.
2. ☒ The allowed claim(s) is/are 14.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/787,746.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Yong D. Pak



DETAILED ACTION

This application is a divisional of 09/787,746, now abandoned.

The after final amendment filed on May 15, 2007, amending claim 14 and canceling claims 12-13, 15-17, 19-32, has been entered. The supplemental after final amendment filed on June 7, 2007, canceling claims 1-11, 18 and 33-37 and amending the specification to insert SEQ ID Nos for the oligonucleotides, has been entered. No new matter has been entered.

Claim 14 is pending and is under consideration.

In a telephone conversation with Mr. Amernick on July 10, 2007, an agreement was reached to amend claim 14 to place the application for allowance.

Response to Arguments/Amendments

Applicant's amendment and arguments filed on May 15, 2007 and June 7, 2007, have been fully considered and in conjunction with the Examiner's Amendment as set forth below, the rejections/objections previously applied have been withdrawn, as detailed below.

Sequence Compliance/Drawings

In view of the amendment of the specification and drawings, the application complies with the sequence rules and the objection to the drawings has been **withdrawn**.

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Claim Rejections - 35 USC § 112, 1st paragraph

In view of the cancellation of claims 12-13 and 16-17, the rejection of claims 12-13 and 16-17 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, has been **withdrawn**.

In view of the cancellation of claims 12-13 and 16-17, the rejection of claims 12-13 and 16-17 under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement, has been **withdrawn**.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Amernick on July 10, 2007.

The application has been amended as follows:

IN THE CLAIMS:

Please replace claim 14 as follows:

14. An isolated polypeptide specified below under (a) or (b):

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- (a) a polypeptide comprising the amino acid sequence of SEQ ID NO:1; or
- (b) a mutant of the polypeptide of (a), wherein said mutant consists of one amino acid deletion, substitution or addition and wherein said mutant has the activity of stereoselectively reducing 5-acetylfuro[2,3-c]pyridine to 5-1-(R)-hydroxyethyl)furo[2,3-c]pyridine.

IN THE SPECIFICATION:

Please replace the Title on page 1, lines 3-4 as follows:

ENZYME FOR PRODUCING OPTICALLY ACTIVE PYRIDINEETHANOL
DERIVATIVES

Allowable Subject Matter

Claim 14 is allowed.

Reasons for Allowance

The following is an Examiner's statement for allowance. The Examiner has found no teaching or suggestion in the prior art directed to a polypeptide comprising the amino acid sequence of SEQ ID NO:1 or a mutant of said polypeptide consisting of one amino acid modification and having the activity of stereoselectively reducing 5-

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acetylfuro[2,3-c]pyridine to 5-1-(R)-hydroxyethyl)furo[2,3-c]pyridine. Therefore, claim 14 is allowable over the prior art.

Conclusion

Claim 14 is allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Pak whose telephone number is 571-272-0935. The examiner can normally be reached 6:30 A.M. to 5:00 P.M. Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



Yong D. Pak
Patent Examiner 1652